

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FREDERICK VARRASSE

Plaintiff,

v.

**NANCY A. BERRYHILL, ACTING
COMMISSIONER OF SOCIAL SECURITY**

Defendant.

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CIVIL ACTION NO. 17-766

ORDER

AND NOW, this 22nd day of January 2018, upon careful and independent consideration of Plaintiff's Request for Review, the response and reply thereto, the administrative record, and the Report and Recommendation ("R&R") of United States Magistrate Judge Marilyn Heffley, to which no objections have been filed, it is hereby **ORDERED** that:

1. The Clerk is directed to **REMOVE** the case from Civil Suspense;
2. The R&R [Doc. No. 17] is **APPROVED** and **ADOPTED**¹; and
3. Plaintiff's Request for Review [Doc. No. 11] is **GRANTED**, and this matter is

REMANDED to the Commissioner for further review pursuant to the fourth sentence of 42 U.S.C. § 405(g).

It is so **ORDERED**.

BY THE COURT:

/s/Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.

¹ The Court agrees with the detailed R&R that the opinion of the Administrative Law Judge ("ALJ") was not supported by substantial evidence with regard to the conclusion that after properly considering Plaintiff's limitations that there were a substantial number of jobs in the economy that Plaintiff could perform during the relevant time period. The ALJ erred by relying on the testimony of the vocational expert where the examples of suitable job categories conflicted with the requirements set forth in the Dictionary of Occupational Titles and its companion publication and the discrepancy was not explained. The Court agrees that Plaintiff has not established that remand for an award of benefits is warranted under the circumstances of this case.